

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA	§	
	§	
v.	§	CRIMINAL NO. 4:09-CR-198 ALM/KPJ
	§	
CESAR ALFRED VILLANUEVA (3)	§	

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the Government's request for revocation of Defendant's supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on August 22, 2017, to determine whether Defendant violated his supervised release. Defendant was represented by Denise Benson. The Government was represented by Tracey Batson.

On October 6, 2010, Defendant was sentenced by the Honorable Richard A. Schell, United States District Judge, to a sentence of forty-six (46) months imprisonment followed by a five (5) year term of supervised release for the offense of Conspiracy to Possess with Intent to Distribute Methamphetamine. Defendant began his term of supervision on November 27, 2013. This case was transferred to the Honorable U. S. District Judge Amos L. Mazzant on June 8, 2017.

On June 16, 2017, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender under Supervision (the "Petition") (Dkt. 118). The Petition asserts that Defendant violated the following conditions of supervision: (1) Defendant shall not commit another federal, state, or local crime; (2) Defendant shall not unlawfully possess a controlled substance; (3) Defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance, or any paraphernalia related to any controlled substances, except as

prescribed by a physician; and (4) Defendant shall not leave the judicial district without the permission of the Court or probation officer.

The Petition alleges that Defendant committed the following violations: (1) On March 31, 2017, Defendant was arrested by the Arkansas State Police in Malvern, Arkansas, on a complaint of trafficking in illegal drugs, namely methamphetamine. The offense report reveals Defendant was observed driving approximately 96 miles per hour in a 70 miles per hour zone, and a traffic stop was initiated. Upon a search of the vehicle, the arresting officers discovered suspected marijuana debris, and observed indications the rear seat of the vehicle Defendant was driving had been recently removed. Upon further search, the officers discovered three clear plastic baggies containing approximately 6.5 pounds of methamphetamine underneath the rear seat of the vehicle. Defendant was subsequently taken into custody, and booked into the Hot Springs, AR, County Jail. As of the writing of the Petition, Defendant remains in the custody of the Hot Springs County Jail in lieu of \$50,000 bond, pending the filing of a formal Information under Case No. 30-CR-17-116. As of the writing of the Petition, Defendant's next court date is set July 17, 2017, in Hot Springs County, AR, Circuit Court; and (2) According to the supervising U.S. Probation Officer in the Northern District of Texas, Carrie Treat, Defendant did not have permission to leave the Northern District of Texas and travel to the state of Arkansas on or about March 31, 2017.

At the hearing, Defendant entered a plea of true to Allegation 4. Defendant waived his right to allocute before the district judge and his right to object to the report and recommendation of this Court. The Court finds that Defendant has violated the terms of his supervised release.

RECOMMENDATION

Pursuant to the Sentencing Reform Act of 1984, and having considered the arguments

presented at the August 22, 2017, hearing, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of fifteen (15) months, with no supervised release to follow, to run consecutively to any other sentence being served. The Court further recommends that Defendant's term of imprisonment be carried out in FCI Seagoville or as close to North Texas as possible, if appropriate.

SIGNED this 25th day of August, 2017.

A handwritten signature in black ink, appearing to read 'KLPJ', is written over a horizontal line.

KIMBERLY C. PRIEST JOHNSON
UNITED STATES MAGISTRATE JUDGE